

Application No. 09/887,609  
Amendment "E" dated February 8, 2006  
Reply to Office Action mailed January 3, 2006

### REMARKS

Initially, this amendment should be entered after final because it does not raise any new issues for consideration and because the claims are distinguished from the art of record in their present form, as discussed with the Examiner on February 7, 2006.

The Final Office Action, mailed January 3, 2006, considered and rejected claims 1-7 and 9-46. Claims 1-7 and 9-44 were rejected under 35 U.S.C. 103(a) as being unpatentable over Knee et al. (U.S. Patent No. 5,589,892) in view of Proehl et al. (U.S. Patent No. 6,690,391). Claim 45 was rejected under 35 U.S.C. 103(a) as being unpatentable over Knee et al. in view of Proehl et al. in view of Lawler et al. (U.S. Patent No. 5,585,538). Claim 46 was rejected under 35 U.S.C. 103(a) as being unpatentable over Knee et al. in view of Proehl et al. further in view of Schein et al. (U.S. Patent No. 6,151,059).<sup>1</sup>

By this paper, claims 1, 18 and 23 have been amended and new claim 47 has been added, such that claims 1-7 and 9-47 remain pending.

The only independent claims at issue are claims 1, 18, 23 and 27, which are directed to various embodiments that include a menu system that displays categories and subcategories in a unique ratcheting interface. For example, as claimed, the menu system provides various categories that, when selected, are each displayed at a selected location on the screen. All of the subcategories corresponding to a selected category are also displayed in a horizontal line with each selected category.

In the last action, the Examiner found that claims of this scope were obvious in view of Knee<sup>2</sup> and Proehl. Applicants respectfully disagree, as stated in the last amendment, inasmuch as

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<sup>1</sup> Although the prior art status and some of the assertions made with regard to the cited art (including Lawler and Schein) is not being challenged at this time, inasmuch as it is not necessary following the amendments and remarks made herein, which distinguish the claims from the art of record, Applicants reserve the right to challenge the prior art status and assertions made with regard to the cited art, as well as any official notice, which was taken in the last office action, at any appropriate time in the future, should the need arise, such as, for example in a subsequent amendment or during prosecution of a related application. Accordingly, Applicants' decision not to respond to any particular assertions or rejections in this paper should not be construed as Applicant acquiescing to said assertions or rejections.

<sup>2</sup> Knee has been cited for the general proposition of displaying categories on a display and in response to the selection of a category, displaying the corresponding subcategories corresponding to the category in a horizontal line such that only horizontal scrolling is necessary to access the corresponding subcategories, without any vertical scrolling. The Examiner also cited Knee for the general proposition that the only subcategories displayed at one time are the subcategories corresponding to the selected category. The Examiner then acknowledged that Knee fails to teach the claimed element that a second selected category replaces a first category in a selected position of a

Application No. 09/887,609  
Amendment "E" dated February 8, 2006  
Reply to Office Action mailed January 3, 2006

neither reference suggests or discloses, among other things, a menu system in which all of the subcategories corresponding to all of the various displayed categories are only ever displayed in a substantially similar horizontal placement on the display screen. Applicants also submit that it would be improper to combine these references to reach the asserted combination of teachings.

These arguments were presented in the last amendment. However, the Examiner indicated that Proehl did indeed show "that subcategories are displayed with the same horizontal alignment (See Figure 15)." With regard to this assertion, Applicants respectfully submit that even if it were true that Proehl showed subcategories in a horizontal alignment, Proehl and the other combined art still fail to teach or suggest the claimed invention inasmuch as the claim language that was recited in the last amendment requires that upon selecting a category, the subcategories corresponding to the selected category are displayed "in a single horizontal line, such that all of the subcategories corresponding to the [selected] category can be accessed by horizontal scrolling of the menu system and without requiring any vertical scrolling of the menu system...and such that every subcategory corresponding to each of the displayed categories, when displayed on the display screen, is displayed with the same horizontal alignment on the display screen, regardless of which category is selected." Emphasis added.

Accordingly, this claim language requires that when a category is selected that ALL of the subcategories corresponding to the selected category will be displayed with the same horizontal alignment so as to be accessed through horizontal scrolling, without requiring any vertical scrolling, as recited in combination with the other recited claim elements.

Although the Examiner relies on Proehl for teaching the aforementioned limitation, the referenced disclosure of Proehl (Figure 15), when viewed in context, actually teaches away from the claimed embodiments. In particular, Figure 15, shows that a Music Category 312 has been selected from the Shopping Option 212. It appears that the Examiner is suggesting that the Shopping Option is analogous to the claimed "category" and that Proehl's Music Category 312 is

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display screen. This is one of the unique features of the present invention, thereby allowing the categories to be ratcheted, as discussed thoroughly throughout the specification, so as to minimize the amount of display that is hidden by the menu system. In particular, "as a user selects categories of the menu system, the system ratchets up or down on the display screen so as to always minimize the amount of programming or web page that is blocked on the display screen by the menu system." (page 5, II. 12-23)

Application No. 09/887,609  
Amendment "E" dated February 8, 2006  
Reply to Office Action mailed January 3, 2006

analogous to one of the claimed "subcategories", along with the displayed Shopping Subcategory Field 314, Shopping Item Field 316 and Shopping Item Price Field 318.<sup>3</sup>

It should be noted however, that Figure 15 does not show that when a category (the Shopping Option) is selected that every corresponding subcategory is displayed in a corresponding horizontal alignment. In fact, to the contrary, Proehl explicitly teaches that the subcategories are displayed in corresponding vertical lists. (See Figures 5, 9, 11-14, and the corresponding disclosure).

The status bar shown in Figure 15, like Figure 17 merely shows what the results of a completed search look like. In particular, the various subsets all include different options that are arranged as items within vertical lists of the fields in which they are displayed, consistent with the rest of the disclosure in Proehl. For example, with regard to Figure 15 and 17, 'the Subcategory Field 314 is merely a subset of the item displayed in Shopping Category 312, Shopping Item Field 316 is a subset of Subcategory Field 314, and Price Field 318 is a subset of Shopping Item Field 316.' (Col 12, ll. 25-29). "Again, by using the scrolling mechanism to highlight a field of the status bar 310, the options arranged as items within a vertical list of the field are displayed. In this example, the various types of movies, in addition to 'Drama' could be displayed by highlighting Field 314 and all the available Drama movies could be displayed by highlighting Field 316."

Accordingly, it is clear from the foregoing, that regardless of which element in the status bar that the Examiner considers to be the main category, that the corresponding subcategories simply are not displayed in a corresponding horizontal alignment to avoid the need for vertical scrolling. Instead, Proehl explicitly teaches that vertical scrolling is necessary to select the desired subcategory from a list of available subcategories that are presented when the corresponding subcategory field is selected. In fact, it appears that Proehl requires vertical ratcheting of all categories as well as all subcategories.

Accordingly, while Proehl does show ratcheting, Proehl's ratcheting appears to be different than Applicants ratcheting, as described. In particular, Applicants ratcheting is performed to minimize the amount of the display that is obstructed during navigation of the

<sup>3</sup> This appears to be the Examiner's reasoning, although the Examiner's never explicitly stated what elements he was considering categories or subcategories, because the Shopping Option is presented in a vertical menu bar that appears to ratchet, similar to the claimed category bar of Applicant's invention. However, the ratcheting menu system is quite different for at least the reasons described herein.

Application No. 09/887,609  
Amendment "E" dated February 8, 2006  
Reply to Office Action mailed January 3, 2006

menu and is performed in such a way that the subcategories for the various selectable categories are all displayed in a substantially similar horizontal alignment, regardless of which category is selected. In contrast to this characteristic of Applicants invention, Proehl actually teaches that the subcategories of the various categories are ultimately displayed and navigated via vertical listings that are displayed when a category or subcategory is selected, and which can actually obstruct the visibility of other displayed content, contrary to the present invention.

Accordingly, Proehl, alone and in combination with Knee, clearly fails to teach or suggest that every subcategory corresponding to each of the displayed categories is displayed with the same horizontal alignment, regardless of which category is selected, as recited in combination with the other claim elements.

Notwithstanding the foregoing distinctions between the art and the claimed invention, the independent claims have been amended to even more clearly recite every subcategory corresponding to each of the displayed categories, is only ever displayed at any time for selection on the display screen in the single horizontal line, regardless of which category is selected. Accordingly, this limitation makes it clear that all subcategories are only displayed in the single horizontal line, as shown and described in the application. Proehl and Knee on the other hand clearly teach the opposite. In particular, as described above, Proehl presents subcategory selections in a plurality of different vertical lists, and Knee presents subcategories in a plurality of different horizontal lists. In summary, Proehl and Knce clearly present subcategories for selection all over the display screen, such that they clearly teach away from the claimed embodiments wherein every subcategory corresponding to each of the displayed categories, is only ever displayed at any time for selection on the display screen in the single horizontal line, regardless of which category is selected.

The art of record also clearly fails to disclose or suggest that subcategories corresponding to a selected category are moved horizontally, and without any vertical movement, during navigation of the subcategories corresponding to the selected category and in such a manner that every undisplayed subcategory corresponding to the selected category is accessed without requiring any displayed subcategory of the selected category to move vertically, as recited in claim 47. (see Figures 5A and 5B, page 20).

In view of the foregoing, Applicants respectfully submit that the Proehl and Knee do not make the claimed invention obvious. Furthermore, even if the combination of Proehl and Knee

Application No. 09/887,609  
Amendment "E" dated February 8, 2006  
Reply to Office Action mailed January 3, 2006

did teach or suggest the claimed invention, their combination is improper because there is inadequate motivation for their combination to one of ordinary skill in the art at the time of the invention and because the embodiments in Knee teach away from such a combination inasmuch as Proehl's menu would render Knee inadequate for its intended purposes.

Initially, Knee appears to teach away from Proehl's ratcheting inasmuch as ratcheting could ultimately reduce the visibility of the textual descriptions that are displayed at any given time. In particular, as shown in Proehl (Figures 5, 9, 11-14) the vertical lists that are presented for ratcheting of the subcategories can obstruct various parts of the screen, and which could be undesirable for Knee. Although this point was made in the last response, it has not been addressed.

Next, Applicants traverse the purported motivation for combining Knee with Proehl, which was asserted to minimize cursor and eye movement. In particular, there is nothing to suggest that Proehl's menu system would minimize eye movement. In fact, as shown by the various embodiments in Proehl, Applicants would actually contend that Proehl actually increases the amount of eye movement that will be required during navigation. (See Figures 5, 9, 11-14, and others, showing how subcategory lists are displayed when a subcategory field is selected.). According, it would not be obvious to one of ordinary skill in the art that eye movement would be reduced by modifying Knee with Proehl.

Next, with regard to cursor movement, Applicants also submit that it is dubious, at best to suggest that the total movement required by a cursor for navigation would be reduced, or that even if it was, that this would be a sufficient motivation for combining the references. In particular, there is nothing to suggest that reduced cursor movement (if it even occurs) is a desired result for user's of the Knee menu system. In fact, the opposite could also be asserted, that users of the Knee system enjoy the feel of control in moving the cursor where they want instead of being locked into the Proehl system that requires ratcheting at every level. If the Examiner continues this line of reasoning, Applicants respectfully request that the Examiner explain in more detail how modifying Knee with the teachings of Proehl would actually reduce cursor movement, as well as support in the art for the Examiner's assertions. The reason for this request is so that Applicants will have a fair opportunity to respond, particularly since it could be argued that Proehl's system can actually require navigation through multiple different subcategory menus to arrive at a desired selection, which could actually increase the total

Application No. 09/887,609  
Amendment "E" dated February 8, 2006  
Reply to Office Action mailed January 3, 2006

amount of navigation and cursor/UI movement required in comparison to some envisioned Knee embodiments.

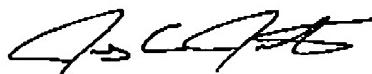
Accordingly, in view of the foregoing, Applicants respectfully submit that the Examiner has not established an adequate showing of a motivation for one of ordinary skill in the art at the time of the invention to modify Knee with the teachings of Proehl. Furthermore, even when the references are combined, they still fail to teach the disclosed invention, as described above.

For at least these reasons, Applicants respectfully submit that the cited art fails to anticipate or make obvious Applicants' invention, as claimed, for example, in the independent claims. In view of this, Applicants note for the record that the other rejections and assertions of record with respect to the independent and dependent claims are now moot, and therefore need not be addressed individually. However, in this regard, it should be appreciated that Applicants do not necessarily acquiesce to any assertions in the Office Action that are not specifically addressed above, and hereby reserve the right to challenge those assertions at any appropriate time in the future, should it arise, including any official notice.

In the event that the Examiner finds remaining impediment to a prompt allowance of this application that may be clarified through a telephone interview, the Examiner is requested to contact the undersigned attorney.

Dated this 8 day of February, 2006.

Respectfully submitted,



RICK D. NYDEGGER  
Registration No. 26,851  
JENS C. JENKINS  
Registration No. 44,803  
Attorney for Applicant  
Customer No. 047973

RDN:JCJ:ppa  
PPA0000002440V001